IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 29TH MAY 2007 / 8TH JYAISHTA 1929

WP(C).No. 8903 of 2007(I)

CRIME NO.25/2007 OF HEMAMBIKA NAGAR POLICE STATION

PETITIONER:

M.DINESH BABU,
S/O T.K.CHANDRASEKHARAN NAIR,
AGED 33 YEARS, 'SARADHI',
KAVILPPAD, PALAKKAD.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENTS:

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1. THE DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS, TRIVANDRUM.

2. THE SUPERINTENDENT OF POLICE,
PALAKKAD.

3. THE SUB INSPECTOR OF POLICE,
HEMAMBIKA NAGAR POLICE STATION,
PALAKKAD.

BY GOVERNMENT PLEADER SRI.S.U.NAZER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R.BASANT, J.

W.P.C.No.8903 of 2007

Dated this the 29th day of May 2007

JUDGMENT

The petitioner is the injured/victim/defacto complainant in Crime No.25/2007 of Hemambika Nagar police station. The alleged occurrence had taken place at about 1 p.m on 17/02/2007. The crime was registered later on the same evening at 18.30 hours. Six accused persons are named in the F.I.statement. It was recorded at the hospital where the petitioner was undergoing treatment. Crime has been registered interalia for the offences punishable under Sections 324 and 308 read with 149 I.P.C. Investigation is in progress. In the course of investigation the allegation under Section 308 I.P.C has been dropped and deleted.

2. The petitioner has come to this court with the grievance that no proper investigation is being conducted by the police. He therefore prays that the investigation may be directed to be conducted by any superior official of the police.

3. Two specific grounds are alleged to justify the prayer made in this petition. First of all, it is contended that the petitioner had alleged that one Vignesh is also involved in the commission of the investigation. It is contended that the statement was not correctly recorded by the police official and the name of Vignesh was omitted. I have gone through the F.I.statement lodged. In the F.I.S though it is stated that the motive for the incident was an earlier incident in which one Vignesh and his group of persons were not permitted to enter the Shiva temple. There is absolutely nothing to show in the F.I.S that the said Vignesh was actually involved in the incident in which the petitioner suffered injuries. There is no allegation even in the accident register cum wound certificate that the said Vignesh was involved in the incident. In these circumstances, I find no merit in the allegation that the police had deliberately omitted to record the name of Vignesh as one of the accused persons.

4. The next contention is that the allegation under Section 308 I.P.C has been dropped unjustifiably and this, it is contended is only to facilitate the grant of bail to the accused persons at the police station. The alleged occurrence took place and the alleged injuries were inflicted with an iron rod and

sword stick. The nature of injuries suffered are described in the wound certificate as follows:

i). Incised wound size 2 x 0.2 x 0.5 cms over right side of scalp.

ii). Lacerated wound size 1 x 0.5 x 0.5 cm over the right side of scalp.

5. Broad indications available reveal that the miscreants had sufficient time to inflict more injuries on the petitioner.

6. Considering the totality of the facts and circumstances of the case, I am of the opinion that the investigating officer has committed no such grave error/irregularity which would justify the invocation of powers under Article 226 of the Constitution for this court to interfere with the investigation and direct that the investigation be conducted by any other police official. Sufficient circumstances to justify resort to the extraordinary constitutional powers to grant such extraordinary reliefs are not shown to exist at all.

7. This writ petition is in these circumstances dismissed.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007